



TOWN OF UPTON, MASSACHUSETTS

Annual Town Meeting 6 May 2021 Warrant DRAFT

IN THE NAME OF THE COMMONWEALTH OF MASSACHUSETTS, you are hereby directed to notify and warn the inhabitants of said Town, qualified to vote in Elections and in Town affairs, to meet at said Nipmuc Regional High School, 90 Pleasant Street, Upton, MA on Thursday, May 6, 2021 punctually at Seven o'clock in the evening, to act on the Articles in the warrant.

ARTICLE 1: To hear reports of all Town Officers and Appointed Committees; or, to take any other action relative thereto.

**Explanation/
Submitted by:** Town Reports/Board of Selectmen

ARTICLE 2: To see if the Town will vote to fix the salaries and compensation of all officers of the Town as provided by M.G.L. Chapter 41, §108, and to raise and appropriate or transfer from available funds¹, such sums as may be necessary to defray expenses of the Town Departments for FY 2022; or, to take any other action relative thereto.

**Explanation/
Submitted by:** Annual Town Operating Budget/Board of Selectmen

Recommendation:

ARTICLE 3: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Water Enterprise Fund as set forth below for FY 2022; or, to take any other action relative thereto.

That the following sums be appropriated for the Water Enterprise Fund:

Wages & Salaries	\$271,350
Expenses	377,639
Capital Outlay	0
Debt	290,081
Extra/Unforeseen	50,000
Total	\$ 989,070

And that **\$989,070.00** be raised for such purposes as follows:

Department receipts	\$794,030
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¹ Note that this warrant uses the words “transfer from available funds” to refer to transfers from Free Cash (previously described as “appropriate from available unappropriated funds in the Town Treasury”) and/or transfers from appropriations made at prior Town Meetings (previously described as “transfer”).

Retained Earnings	50,000
*Tax Levy	145,040
Free Cash	-0-

*(NOTE: As raised and appropriated under Article 2)

Explanation/

Submitted by: Annual budget for Water Enterprise Fund/Board of Selectmen

Recommendation:

ARTICLE 4: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Wastewater Enterprise Fund as set forth below for FY 2022; or, to take any other action relative thereto.

That the following sums be appropriated for the Wastewater Enterprise Fund:

Wage & Salaries	\$ 263,760
Expenses	364,167
Capital Outlay	100,000
Debt	10,537
Extra/Unforeseen	30,000

Total	\$768,464
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And that **\$768,464** be raised for such purposes as follows:

Department receipts	\$ 633,196
Retained Earnings	130,000
Tax levy	5,268*
Free cash	-0-

*(NOTE: As raised and appropriated under Article 2)

Explanation/

Submitted by: Annual budget for Wastewater Enterprise Fund/Board of Selectmen

Recommendation:

ARTICLE 5: To see if the Town will vote to approve annual spending limits for FY 2022 for revolving funds established in Section 7 of Title 2, Chapter 25, of the General Bylaws, in accordance with G.L. Chapter 44, §53E ½, and for the Treasurer/Collector Tax Title Revolving Fund, in accordance with M.G.L. Chapter 60, §15B, with such expenditure limits to be applicable for each fiscal year until such time as Town Meeting votes, prior to July 1 in any year, to increase the same for the ensuing fiscal year; provided, however, that at the request of the entity authorized to expend such funds, the Board of Selectmen, with the approval of the Finance Committee, may increase such limit, for that fiscal year only, all as set forth below; or to take any other action relative thereto:

Authorized Revolving Funds (G.L. c.44, §53E ½)	Fiscal Year Expenditure Limit
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Board of Health "Curbside Waste and Recycling Fund"	\$15,000
Board of Health "Title V Fund"	\$10,000
Conservation Commission "Wetlands Revolving Fund"	\$20,000
Conservation Commission "Storm Water By- Law Fund"	\$7,000
Council on Aging Programming	\$10,000
Land Stewardship Committee "Community Garden Fund"	\$2,000
Land Stewardship Committee "Land Stewardship Fund"	\$10,000
Town Library Fund	\$6,000
Recreation Commission	\$260,000
Authorized Revolving Fund (G.L. c.60, §15B)	Fiscal Year Expenditure Limit
Treasurer/Collector Tax Title	\$15,000

Explanation/

Submitted by: To approve spending limits for the various town revolving funds, to be applicable from year to year unless later changed by Town Meeting/Board of Selectmen.

Recommendation:

ARTICLE 6: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for PEG Access and Cable Related Fund as set forth below for FY 2021; or, to take any other action relative thereto.

That the following sums to be appropriated for the Peg Access and Cable Related Fund:

Wage & Salaries	\$44,000
Expenses	\$ 3,200
Capital Outlay	\$20,000
Extra/Unforeseen	\$10,000

Total	\$77,200
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And that **\$77,200** to be raised for such purposes as follows:

Department receipts	\$77,200
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Explanation/

Submitted by: In November 2019, the town voted to accept the provisions of General Laws Chapter 44, Section 53F 3/4, establishing a special revenue fund known as the PEG Access and Cable Related Fund in order to reserve cable franchise fees and other cable related revenues for appropriation by Town Meeting to support PEG access services and oversight and renewal of the cable franchise agreement.

Recommendation:

ARTICLE 7: To see if the Town will vote to raise and appropriate, or transfer from available funds, the sum of Four Hundred Thirty-Six Thousand Four Hundred Ninety-Seven dollars (\$436,497), or any other sum, into the Stabilization Fund; or to take any other action relative thereto.

Explanation/

Submitted by: The Government Finance Officers Association recommends that municipalities maintain a stabilization account equal to or greater than two to three months of its operating expense or a minimum of 10%; bond ratings agencies review these ratios as a measure of financial strength; the Stabilization Account may be used for any legal purpose, including to maintain level services during difficult economic times or to serve as a funding source for important capital projects/Finance Committee

Recommendation:

ARTICLE 8: To see if the Town will vote to accept and expend such sum or sums of money allotted or to be allotted to the Town from the Commonwealth of Massachusetts under the provisions of M.G.L. Chapter 90 or under any other state roadway reimbursement programs for FY 2020, and to authorize the Board of Selectmen to enter into a contract or contracts with the Massachusetts Department of Transportation Highway Division for such purposes; and further, to authorize the Treasurer with the approval of the Board of Selectmen, to borrow in anticipation of 100% reimbursement of said amounts; or, to take any other action relative thereto.

Explanation/

Submitted by: Annual road repair appropriation from the Commonwealth/Board of Selectmen

Recommendation:

ARTICLE 9: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow, the sum of Five Hundred Sixty-Two Thousand Three Hundred Eighty dollars (\$562,380), or, any other sum, to be used for the construction and/or improvement of Town Roads to supplement those provided for under the Commonwealth of Massachusetts M.G.L. Chapter 90 Program; or, to take any other action relative thereto.

Explanation/

Submitted by: To provide for supplemental funding to address road repairs as called for in the Town's pavement management plan/Board of Selectmen.

Recommendation:

ARTICLE 10: To see if the Town will vote to raise and appropriate or transfer from available funds the sum of Two Hundred Thousand dollars (\$200,000) to fund the snow and ice deficit for FY 2021; or, to take any other action relative thereto.

Explanation/

Submitted by: This article is to fund additional costs for the removal of snow and ice in Upton/Board of Selectmen

Recommendation:

ARTICLE 11A: To see if the Town will vote to appropriate, borrow or transfer from available funds, the sum of Twelve Million Dollars (\$12,000,000) or any sum of money to be expended under the direction of the Board of Selectmen for the purpose of paying costs of the project management, site preparation, construction, equipping and furnishing a new Community Center building located at 0 Milford Street Map 201 Lot 053, including the payment of all incidental and related costs and authorize the Town Treasurer, with the approval of the Board of Selectmen, to borrow said sum under M.G.L. Chapter 44, or any other enabling authority, and that any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any such premium applied to the payment of the costs of the issuance of such bonds or notes, may be applied to payment of costs approved by this vote in accordance with G.L. c. 44 § 20 of the General Laws, thereby reducing the amount to be borrowed to pay such cost by a like amount and further provided that said appropriation shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. Chapter 59, Section 21C (Proposition 2½), or take any other action relative thereto.

Explanation/

Submitted by: During the Winter of 2020, the Board of Selectmen appointed a 7-member Building Committee to hire an owner's project manager and an architect to develop and design engineered plans to construct a 21st-century community center to be located in the heart of the Town's center. The proposed Community Center will replace the aging public non-ADA compliant Library and outdated Senior Center in one central location as part of the vision for an active and vibrant downtown.

Recommendation:

ARTICLE 11B: To see if the Town will vote to authorize the Board of Selectmen to enter into a lease agreement or sign any other instruments with the VFW in accordance with the Shared Parking Agreement, or take any other action relative thereto.

Explanation/

Submitted by: The Board of Selectmen alongside of the Building Committee have negotiated a long-term lease agreement with the VFW for "shared parking" agreement if the Community Center were to be built on 0 Milford Street.

Recommendation:

ARTICLE 12 A: To see if the Town will vote to transfer up to Five Hundred and Sixty Thousand dollars (\$560,000) from the Community Preservation Undesignated Fund Balance to fund the construction of a new playground with the new Community

Center located at 0 Milford Street Map 201 Lot 053; including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: Part of the design and engineering of a 21st century Community Center, a proposed new playground is scheduled to be co-located to rear of the property. The Building Committee has requested the use of CPC funds to support the construction of such playground/Community Preservation Committee

Recommendation:

ARTICLE 12 B: To see if the Town will vote to transfer from the undesignated fund balance of the Community Preservation Fund the following sums to the specified Community Preservation Fund reserve accounts to meet the requirements of M.G.L. Chapter 44B, §6, for FY21:

- Historic Resources Account - \$73,515
- Open Space Account - \$73,515
- Community Housing Account - \$73,515

and to place any remaining FY2021 CPA Trust Fund matching revenues in a so-called “FY2021 Undesignated Budgeted Reserve”, or, to take any other action relative thereto.

Explanation/

Submitted by: We are requesting the transfer of 10% of local and CPA trust fund revenues to the three reserve accounts as required by law. Anticipated local revenue is \$473,692 and CPA trust fund matching grant is \$261,455 for a total of \$735,147. We request that \$73,515 be transferred to the Open Space, Historic Preservation and Affordable Housing Reserve Accounts and that the remainder stay in the undesignated fund/Community Preservation Committee.

Recommendation:

ARTICLE 12 C: To see if the Town will vote to act on the report of the Community Preservation Committee on the FY 2021 community preservation budget, and to appropriate the sum of Fifteen Thousand dollars (\$15,000), or any other amount, from the Community Preservation Fund FY 2022 estimated annual revenues to the Community Preservation Committee Administrative Expense Account for all necessary and proper administrative expenses of the Committee for FY 2022; or, to take any other action relative thereto.

Explanation/

Submitted by: To transfer an amount from estimated annual revenues for the administrative and operating costs of the Community Preservation Committee for FY 2022. /Community Preservation Committee.

Recommendation:

ARTICLE 12 D: To see if the Town will vote to transfer the total sum of Two Hundred Sixty-Six Thousand Four Hundred Seventy-Eight dollars (\$266,478.00) from the

Community Preservation Fund to meet the ninth-year payment of debt service owed on the General Obligation Town Hall Renovation Bonds, or, to take any other action relative thereto

Explanation/

Submitted by: To make the ninth-year principal and interest payments (with 11 years remaining) on the Town Hall bonds, to be paid from CPA monies consistent with the Town's vote to authorize the project / Community Preservation Committee

Recommendation:

ARTICLE 12 E: To see if the Town will transfer the sum of two hundred ten thousand two hundred forty-eight dollars (\$210,248) from the CPA Undesignated Fund to the CPA Open Space Reserve Account. This is the reimbursement received from the Division of Conservation Services for expenses incurred during the Robertson Conservation Restriction Project, or, to take any other action relative thereto.

Explanation/

Submitted by: Upon completion of the Robinson Conservation Restriction Project, the CPA Undesignated account received \$210,248 in land grant funds from the Division of Conservation Services to reimburse the Town's CPA fund for expenses incurred. The initial expenditure was sourced from the CPA Open Space Reserve Account. This transfer will transfer the reimbursement to the proper account from which the original funds were expended/Community Preservation Committee

Recommendation:

ARTICLE 13: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Five Thousand dollars (\$5,000), or any other sum, to supplement the Town's "Conservation Fund"; or, to take any other action relative thereto.

Explanation/

Submitted by: To provide additional funding for the Town's Conservation Fund /Conservation Commission.

Recommendation:

ARTICLE 14: To see if the Town will vote to renumber and recaption the General Bylaws of the Town by (a) assigning a chapter/article number to each of the General Bylaws; (b) renumbering each section of each bylaw accordingly; (c) inserting chapter, article, section and subsection titles; and (d) updating internal references to reflect the new numbering system, all as set forth in the Final Draft of the Code of the Town of Upton, dated April 1, 2021, on file with the Town Clerk, or take any other action relative thereto.

Explanation/

Submitted by: General Bylaws were reviewed and codified by a consultant for accuracy and to ensure bylaws adhered to current State law. Boards/Commissions/Staff reviewed the recommendations of the consultant to ensure bylaws reflected current practices. The recommended changes reflect current practice and State law/Town Clerk

Recommendation:

ARTICLE 15: To see if the Town will vote to renumber and recaption the Zoning Bylaw of the Town by (a) designating the Zoning Bylaw as Chapter 300 of the Code of the Town of Upton; (b) renumbering each section and subsection of the bylaw accordingly; (c) inserting article, section and subsection titles; and (d) updating internal references to reflect the new numbering system, all as set forth in the Final Draft of the Code of the Town of Upton dated April 2021, on file with the Town Clerk, or what it will do in relation thereto.

Explanation/

Submitted by: Zoning Bylaws were reviewed and codified by a consultant for accuracy and to ensure bylaws adhered to current State law. Boards/Commissions/Staff reviewed the recommendations of the consultant to ensure bylaws reflected current practices. The recommended changes reflect current practice and State law/Town Clerk

Recommendation:

ARTICLE 16: To see if the Town will vote to adopt the following changes to the Zoning Bylaw as set forth in the Final Draft of the Code of the Town of Upton dated April 2021, on file with the Town Clerk, or what it will do in relation thereto.

Explanation/

Submitted by: Zoning Bylaws were reviewed and codified by a consultant for accuracy and to ensure bylaws adhered to current State law. Boards/Commissions/Staff reviewed the recommendations of the consultant to ensure bylaws reflected current practices. The recommended changes reflect current practice and State law/Town Clerk

Recommendation:

ARTICLE 17: To see if the Town will vote to adopt the following changes to the General Bylaws as set forth in the Final Draft of the Code of the Town of Upton, dated April 2021 on file with the Town Clerk, or take any other action relative thereto.

Explanation/

Submitted by: General Bylaws were reviewed and codified by a consultant for accuracy and to ensure bylaws adhered to current State law. Boards/Commissions/Staff reviewed the recommendations of the consultant to ensure bylaws reflected current practices. The recommended changes reflect current practice and State law/Town Clerk

Recommendation:

ARTICLE 18: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of the sum of Twenty-Five Thousand dollars (\$25,000), or any other sum, for additional town wide tree removal along the town public ways,

including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: Regular power outages continue to plague this community due to trees coming down during ordinary storms. The proposed \$25,000 is to provide additional funding to hire a contractor to remove dead trees or hanging tree limbs within the town right of way/Town Manager

Recommendation:

ARTICLE 19: To see if the Town will vote to amend the Town's Zoning By-laws by inserting the underlined language as follows:

Section 300-5.12G ~~Section 5.12.7~~ Signs in General Business Districts, Upton Center Business District, and Commercial & Industrial Districts. The following signs pertaining to permitted buildings, structures and uses on the premises are allowed as of right on a building, subject to any additional regulations or prohibitions set forth in this By-Law:

or take any other action relative thereto.

Explanation/

Submitted by: When Town Meeting approved the Upton Center Business District (UCBD) all necessary changes were made to the Zoning Bylaws except for Section 5.12 (SIGNS). This proposed change will add the UCBD into the appropriate section of the Town's Zoning Bylaws thereby allowing signage in the UCBD/Economic Development Committee/ Planning Board

Recommendation:

ARTICLE 20: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Fifty-Five Thousand dollars (\$55,000), or any other sum, to purchase a replacement pickup truck for the Water & Wastewater Divisions, or, to take any other action relative thereto.

Explanation/

Submitted by: The funding is necessary to replace a 2011 pickup and plow used daily by the Water & Wastewater Divisions. In addition, the truck assists the Highway Division with winter operations and snow removal. The current truck will be transferred to the Highway Division to replace a 2006 pickup truck used by all Divisions within the DPW including Water & Wastewater, snow plowing, and seasonal staff. That 2006 pickup truck will be placed in the Town's auction/DPW Director

Recommendation:

ARTICLE 21: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of one Twenty-Four thousand dollars (\$24,000.00), or any other sum, to purchase fire

records management system, for the Fire Department, including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: The Fire Department seeks to upgrade its records management system to better integrate with the Police Department system as a way to automate reporting and dispatching of calls/Fire Department

Recommendation:

ARTICLE 22: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Eleven Thousand and Five Hundred dollars (\$11,500.00), or any other sum, to purchase 3 sets of personal protective firefighter gear (PPE) including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: NFPA 1851, Standard on Selection, Care and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting, states that all “ensembles and ensemble elements shall be retired...no more than 10 years from the date the ensembles or ensemble elements were manufactured.” This includes helmets, hoods, coats, pants, gloves, and boots. The intention of the department is to continue its long term and ongoing replacement plan so that turnout gear will meet this standard at all times/Fire Department

Recommendation:

ARTICLE 23: To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow the sum of Ten Thousand dollars (\$10,000.00), or any other sum, to fund a Canada Geese Management program for Kiwanis Beach recreation area, and all incidental and related costs, and or to take any other action relative thereto.

Explanation/

Submitted by: This past summer Kiwanis Beach bathing area had to be closed on multiple occasions due to high levels of coliform bacteria. Non-migratory Canada Geese have made this recreation area their home and subsequently have become a leading contributor of bacteria and the degrading water quality at the pond/Town Manager

Recommendation:

ARTICLE 24: To see if the Town will vote to raise and appropriate, appropriate from available unappropriated funds in the Town Treasury, or transfer, or borrow the sum of Ten Thousand dollars (\$10,000.00), or any other sum, to purchase a large colortrac scanner including all expenses incidental and related, or, to take any other action relative thereto.

Explanation/

Submitted by: The Board of Health is respectively requesting \$10,000.00 funding for the purchase of a large colortrac scanner. This scanner would be utilized to copy large septic designs into our electronic data base. These plans are then used for review during Board meetings as well as provide an electronic version to homeowners and contractors.

This scanner would also be available for other town departments wishing to scan large plan documents/Board of Health

Recommendation:

ARTICLE 25: To see if the Town will vote to accept as a public way the roadway known as Azalea Lane, as heretofore laid out by the Board of Selectmen and shown on a plan of land entitled “‘Layout Plan of Azalea Lane ‘J.R. Estates’ Upton, Mass.,” dated August 22, 2019, prepared by Guerriere & Halnon, Inc., and on file with the Town Clerk, and authorize the Board of Selectmen to acquire, by gift, purchase, and/or eminent domain, the fee to and/or easements in Azalea Lane for all purposes for which public ways are used in the Town of Upton and any drainage, utility and/or other easements related thereto; or, to take any other action relative thereto.

Explanation/

Submitted by: To accept Azalea Lane as a public way per the agreement between the Upton Planning Board and D&F Afonso Builders/Board of Selectmen.

Recommendation:

ARTICLE 26: Citizens Petition
We, the citizens of The Town of Upton, MA., submit the article for the Warrant to be submitted for the Annual Town Meeting for 2021, currently scheduled for May 6, 2021.

To see if the town will vote to fund from free cash an accessible ramp and entrance into the first floor of the Risteen Building in the amount of forty-five thousand dollars (\$45,000.00) or any other amount to provide immediate access to the Upton Public Library.

JUSTIFICATION: The Upton Public Library remains out of compliance with the Americans with Disabilities Act of 1990, and subject to legal action at any time. More importantly, people with physical mobility impairments cannot physically access our library, a source of both shame and sadness within our community. One of the founding members of the Disability Commission, an active community servant and resident of Upton for more than fifty years, died without ever entering our library. While a ramp and accessible entrance will not provide full accessibility within the library, this renovation will facilitate simple access as we develop a Town-wide Accessibility Transition Plan and/or build a new facility, should that be approved. /Lynn Hagerty et. al

ARTICLE 27: Citizens Petition
We, the citizens of The Town of Upton, MA., submit the article for the Warrant to be submitted for the Annual Town Meeting for 2021, currently scheduled for May 6, 2021.

To see if the Town will vote to annually budget and appropriate the Actuarial Determined Employer Amount for the Other Post-Employment Benefits Trust Fund (OPEB), which for FY21 is \$930, 620.00

JUSTIFICATION: The OPEB Trust Fund is currently well below full funding, with an annual budget allocation of \$100 thousand against a current unfunded liability of approximately \$7.8 million dollars (June 2020). This is for the retirement benefits contractually promised to CURRENT town employees AT THIS TIME. As we hire new employees and expand our work force with new positions, our OPEB obligations increase. As current employees retire, our annual contribution will need to increase proportionally. The regional school budget includes appropriate funding and protection of their pensions and other retirement benefits, and our town employees deserve this same protection of their retirement plans.

While we are not the only municipality in this position of woefully under-funded OPEB trust funds, a laissez-faire attitude toward our town employees and their promised post-retirement benefits speaks poorly of our commitment to their future. Should we depend upon some kind of state or federal bailout of this fund, we run the risk of pennies on the dollar, a sudden and significant reduction in the benefits promised to these employees. This will also have an impact on the quality of future employees should they realize we may not meet our fiscal obligations to them. This historical and chronic under-funding of this liability, money-owed, also impacts our bond rating for municipal loans. /Michelle Antinarelli et al.

And you are directed to serve this Warrant, by posting up attested copies thereof at the U.S. Post Office, Town Library, and Town Hall, in said Town seven days (7) at least before the time of holding said Meeting.

HEREOF FAIL NOT, and make due return of this Warrant, with your doings thereon, to the Town Clerk, at the time and place of meeting, as aforesaid.

Given under our hands this XXX day of April in the year of our lord two thousand twenty-one.

UPTON BOARD OF SELECTMEN

A true copy, Attest:

Brett A. Simas, Chairman

Maureen Dwinnell, Member

_____, Constable
Date: April, 2021

Stephen A. Matellian, Member

Worcester, ss.

Pursuant to the within Warrant, I have notified and warned the inhabitants of the Town of Upton by posting up attested copies of the same at the Town Hall Building, Library Building, and the Upton U.S. Post Office at least seven days (7), before the date of the meeting, as within directed

Constable of Upton
April, 2021

DRAFT